IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 354 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT ELECTRICITY BOARD

Versus

KOBE STEEL PVT.LTD.

Appearance:

1. Appeal from Order No. 354 of 1993

MR AD OZA for Petitioner No. 1

(MR PB MAJMUDAR) for Respondent No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 09/10/2001

ORAL JUDGEMENT

On the basis of the Division Bench judgment of this Hon'ble Court in the case of Kiran Industries Vs.

Gujarat Electricity Board reported in GLR 1995(2) 1, learned counsel Shri Dave for the appellant submitted that the learned Judge has committed a grave error in allowing application Ex.5 on condition. He submitted that the learned judge should have insisted upon the respondent-plaintiff to deposit the entire amount.

It is true that the Division Bench of this Hon'ble Court in the case of Kiran Industries (supra) has taken the view that without payment of the bill under challenge, no court should grant interim relief and the consumer should be ordered to pay the bill in question in full to the GEB. However, this judgment was delivered later on after the learned judge passed the impugned order on 4.5.1993, therefore, there was no question of applicability of the aforesaid judgment before the learned Judge when he decided the matter.

It may be stated that along with this appeal Civil Application No.3426 of 1993 was filed praying that the impugned order passed by the learned trial judge be stayed.

On 26.8.1993 the learned Single Judge of this court ordered that no interim relief for the time being. Thereafter, till today the appellant has not moved that application for orders. Thus, in short, there is no interim order in favour of the appellant against the impugned order passed by the learned trial judge.

Under the circumstances, it would not be proper for this court to interfere with the impugned order dated 4.5.1993 passed by the learned Judge after more than 8 years, more particularly, when the learned Judge while granting the application Ex.5 ordered the plaintiff to deposit Rs.5,00,000/= for reconnection.

In view of the above, this appeal is disposed of without going to the legality and validity of the order passed by the learned trial Judge with a direction to the learned trial Judge to decide the Special Civil Suit No.359 of 1993 as early as possible and not later than 30.10.2002, if the same suit is not so far disposed of. Parties shall fully cooperate with the final disposal of the suit.

The Civil Application No.3426 of 1993 is disposed of as the main Appeal from Order No.354 of 1993 is disposed of.

(B.J.Shethna, J.)

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